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11 Attorneys for Plaintiff

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 STAR FABRICS, INC., a California
15 Corporation,

16 Plaintiff,

17 v.

18 UMGEE U.S.A., INC., a California
19 Corporation; FRESH STYLE, a business
20 entity of form unknown; and DOES 1
21 through 10,

22 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR
COPYRIGHT INFRINGEMENT

Jury Trial Demanded

23 Star Fabrics, Inc., by and through its undersigned attorneys, hereby prays to
24 this honorable Court for relief based on the following:

25 **JURISDICTION AND VENUE**

26 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
27 *et seq.*

1 8. Plaintiff is informed and believes and thereon alleges that at all times
2 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
3 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
4 at all times acting within the scope of such agency, affiliation, alter-ego relationship
5 and/or employment; and actively participated in or subsequently ratified and/or
6 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
7 circumstances, including, but not limited to, full knowledge of each violation of
8 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

9 **CLAIMS RELATED TO DESIGN NO. 62194**

10 9. Plaintiff owns an original two-dimensional artwork used for purposes of
11 textile printing entitled 62194 ("Subject Design A") which has been registered with
12 the United States Copyright Office.

13 10. Prior to the acts complained of herein, Plaintiff widely disseminated fabric
14 bearing Subject Design A to numerous parties in the fashion and apparel industries.

15 11. Plaintiff is informed and believes and thereon alleges that following its
16 distribution of Subject Design A, UMGEE, DOE Defendants, and each of them
17 distributed and/or sold fabric and/or garments featuring a design which is
18 substantially similar to Subject Design A (hereinafter "Subject Product A") without
19 Plaintiff's authorization, including but not limited to products sold by Calabar
20 Imports bearing the label "UMGEE USA" and RN 130733, indicating that it was
21 manufactured by or for UMGEE.

22 12. An image of Subject Design A and an exemplar of Subject Product A are
23 set forth hereinbelow:
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Subject Design A



Subject Product A



CLAIMS RELATED TO DESIGN NO. 62279

13. Plaintiff owns an original two-dimensional artwork used for purposes of textile printing entitled 62279 (“Subject Design B”) which has been registered with the United States Copyright Office.

14. Prior to the acts complained of herein, Plaintiff widely disseminated fabric bearing Subject Design B to numerous parties in the fashion and apparel industries.

15. Plaintiff is informed and believes and thereon alleges that following its distribution of Subject Design B, UMGEE, FRESH, DOE Defendants, and each of them, manufactured, distributed, and/or sold fabric and/or garments comprised of fabric featuring a design which is identical, or substantially similar, to Subject Design B (hereinafter “Subject Product B”) without Plaintiff’s authorization, including but not limited to products sold by FRESH bearing the label “UMGEE U.S.A.” indicating that it was manufactured by or for UMGEE.

1 16. An image of Subject Design B and an exemplar of Subject Product B are set
2 forth hereinbelow:

3 **Subject Design B**



Subject Product B



12 **FIRST CLAIM FOR RELIEF**

13 (For Copyright Infringement - Against All Defendants, and Each)

14 17. Plaintiff repeats, realleges and incorporates herein by reference as though
15 fully set forth the allegations contained in the preceding paragraphs of this
16 Complaint.

17 18. Plaintiff is informed and believes and thereon alleges that Defendants, and
18 each of them, had access to Subject Designs A and B (collectively, “Subject
19 Designs”), including, without limitation, through (a) access to Plaintiff’s showroom
20 and/or design library; (b) access to illegally distributed copies of Subject Designs by
21 third-party vendors and/or DOE Defendants, including without limitation
22 international and/or overseas converters and printing mills; (c) access to Plaintiff’s
23 strike-offs and samples, and (d) access to garments in the marketplace manufactured
24 with lawfully printed fabric bearing Subject Designs.

25 19. Plaintiff is informed and believes and thereon alleges that one or more of
26 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
27 further informed and believes and thereon alleges that said Defendant(s), and each of
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1 them, has an ongoing business relationship with Defendant retailers, and each of
2 them, and supplied garments to said retailers, which garments infringed Subject
3 Designs in that said garments were composed of fabric which featured unauthorized
4 print designs that were identical or substantially similar to Subject Designs, or were
5 an illegal modification thereof.

6 20. Plaintiff is informed and believes and thereon alleges that Defendants, and
7 each of them, infringed Plaintiff's copyright by creating, making and/or developing
8 directly infringing and/or derivative works from Subject Designs and by producing,
9 distributing and/or selling Subject Products through a nationwide network of retail
10 stores, catalogues, and through on-line websites.

11 21. Due to Defendants', and each of their, acts of infringement, Plaintiff has
12 suffered damages in an amount to be established at trial.

13 22. Due to Defendants', and each of their, acts of copyright infringement as
14 alleged herein, Defendants, and each of them, have obtained profits they would not
15 otherwise have realized but for their infringement of Subject Designs. As such,
16 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits
17 attributable to the infringement of Subject Designs in an amount to be established at
18 trial.

19 23. Plaintiff is informed and believes and thereon alleges that Defendants, and
20 each of them, have committed copyright infringement with actual or constructive
21 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
22 and continue to be, willful, intentional and malicious.

23 **PRAYER FOR RELIEF**

24 Wherefore, Plaintiff prays for judgment as follows:

- 25 a. That Defendants—each of them—and their respective agents and
26 servants be enjoined from importing, manufacturing, distributing,
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1 offering for sale, selling or otherwise trafficking in any product that
2 infringes Plaintiff's copyrights in Subject Designs;

- 3 b. That Plaintiff be awarded all profits of Defendants, and each of them,
4 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,
5 or, if elected before final judgment, statutory damages as available under
6 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 7 c. That Plaintiff be awarded its attorneys' fees as available under the
8 Copyright Act U.S.C. § 101 et seq.;
- 9 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 10 e. That Plaintiff be awarded the costs of this action; and
- 11 f. That Plaintiff be awarded such further legal and equitable relief as the
12 Court deems proper.

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14 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
15 38 and the 7th Amendment to the United States Constitution.

16 Dated: February 1, 2016

DONIGER/BURROUGHS

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18 By: /s/ Stephen M. Doniger
19 Stephen M. Doniger, Esq.
20 Howard S. Han, Esq.
21 Attorneys for Plaintiff
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